

**ARTICLE 49**  
**MID-TERM BARGAINING**

**Section 49.01 - General.** The rights and obligations of the parties regarding Mid-term Bargaining shall be in accordance with 5 USC Chapter 71 and this Agreement. The purpose of this Article is to prescribe the criteria and procedures by which the Union and the Department (the parties) shall engage in negotiations during the term of the Agreement. The parties agree that it is in the interest of the Government, the public, and the parties to negotiate in good faith in order to facilitate negotiations.

- (1) The parties are encouraged to engage in pre-decisional involvement prior to formal presentation of proposals for changes to personnel policies, practices, and/or working conditions under this Article.
- (2) Nothing in this Agreement shall be deemed to waive either party's statutory rights.

**Section 49.02 - Mid-Term Changes.** During the term of this Agreement, Management shall transmit to the Union its proposed changes relating to personnel policies, practices, and general conditions of employment. Receipt of the proposed changes by the designated Union representatives, or their designee, shall constitute receipt by the Union for the purpose of calculating the deadline for requesting negotiations referred to in this Article. Any notice sent after 4:00 p.m. shall be deemed to be received on the next business day. If feasible, management will provide advance written notice at least 30 days prior to the proposed implementation date, of any change affecting conditions of employment. Management may implement as soon as the bargaining obligations are satisfied, even if the 30 day timeframe has not been exhausted.

**Section 49.03 - Information to the Union on Mid-Term Changes.** The following information, if available, shall be included in the notices of proposed Management mid-term changes. Any requests for further information by the Union shall not delay the commencement of negotiations. Once negotiations begin, the parties may modify their initial proposals and/or submit counter-proposals upon receipt of previously unavailable information related to the scope of the negotiations.

- (1) For proposed changes that affect headquarters and all regions, the notice of proposed changes shall be sent to the Council President, their designee(s) and all Regional Vice Presidents electronically. The Union shall annually notify Management of the names and email addresses of the current designees(s) and Regional Vice Presidents. Receipt of the proposed changes by the Council President, or by the Council President's designee, shall constitute receipt by the Union for the purpose of calculating the deadline for requesting negotiations referred to in this Article.
- (2) For proposed changes that do not affect every region but impact more than one (1) Union local, the notice of proposed changes shall be sent to the Council President, their designee(s) and the Regional Vice Presidents in the affected regions. Receipt of the proposed changes by the Council President, or by the Council President's designee, shall constitute receipt by the Union for the purpose of calculating the deadline for requesting negotiations referred to in this Article.
- (3) If the proposed change only affects one (1) local office, the notice will be sent to the

applicable Local President or designee. Receipt of the proposed changes by the applicable officer above shall constitute receipt by the Union for the purpose of calculating the deadline for requesting negotiations referred to in this Article.

**(4) Change in a Policy or Past Practice.**

- (a) Copy or statement of the current policy or past practice;
- (b) The nature, scope, and rationale for the proposed change;
- (c) A copy or statement of the proposed new policy or practice; and
- (d) The proposed implementation date.

**(5) Moves.**

- (a) Projected date of move and duration of stay in new location.
- (b) Name, room numbers, grade, title, and series of all affected bargaining unit employees.
- (c) If applicable, new address, floor number, room number, and work station number for each affected bargaining unit employee.
- (d) Current floor plan (with work space assignments showing names, average number of square feet per employee, and total number of square feet for the office being moved).
- (e) New floor plan (with same information as above).
- (f) Name and phone number of the move coordinator.
- (g) Whether employees will be able to keep their current office furniture, telephone extension, computer equipment and other equipment.
- (h) Description of any construction, repair or other physical improvement plans to include, but not limited to installing modular furniture, moving/installing filing cabinets, laying or shampooing carpet, installing partitions, painting walls, exterminating, installing network computer/printer cables, moving phone jacks or electrical outlets, or taking out or installing walls. If any such activity is planned, when the activity will take place and how the employees will be affected and, what arrangements will be made for affected employees, if necessary.
- (i) If required by the nature of the refurbish or move, plans and arrangements for accessibility under Section 504 of the Rehabilitation Act, the Americans with Disabilities Act, and local standards-in addition to arrangements under reasonable accommodations.
- (j) Applicable emergency and safety plan(s), and modifications to such plans.
- (k) Estimated cost.

**(6) Reorganizations.**

- (a) Name, grade, title, and series of affected bargaining unit employees.
- (b) Impact, if any, upon upward mobility and/or career ladder positions.
- (c) Employees who will have a different first or second line supervisor as a result of the reorganization.
- (d) Impact, if any, upon employee's receipt of performance ratings.

- (e) Copies of position descriptions for new positions if different from current position.
- (f) Names of any employees detailed in connection with the reorganization.
- (g) Any new positions created as a result of the reorganization.
- (h) Names of any employees who will be downgraded or separated as a result of the reorganization.
- (i) Names of any employees who will be moved as a result of the reorganization.
- (j) Copy of before and after organization charts.

**(7) Conversion to Contract Performance.**

- (a) The invitation for bid (IFB) or request for proposal (RFP).
- (b) The abstract of bids or proposals after contract award.
- (c) All correspondence from higher authority directing the cost comparison study.
- (d) The official Department of Labor documentation supporting the wage rates applicable to the function being considered for contracting out.
- (e) The performance work statement.
- (f) The "Milestone" chart or similar document setting forth the estimated dates for the contracting out process.
- (g) All changes to the performance work statement.
- (h) All bidder questions and the Department's answers related to the performance of work statement.
- (i) Copy of the retention register.
- (j) Impact upon bargaining unit employees.

**(8) Reduction-In-Force (RIF), Furloughs, or Transfer of Function.**

The content of the notice will reflect the requirements in Articles 33 and 34.

**Section 49.04 - Response to Proposed Changes.**

- (1) Upon receipt of Management's notice of proposed change(s), the Union may submit a demand to bargain over the change(s) within fifteen (15) days by submitting preliminary proposals. All proposals shall be related to the impact of the proposed change(s). If no proposals are submitted within fifteen (15) days, bargaining shall be deemed to have been waived.
- (2) Upon timely request for negotiations from the Union, the negotiations shall begin within ten (10) days from the Union's submission of its bargaining proposals, unless changed by mutual consent.

**Section 49.05 - Venue; Number of Negotiators; Travel Costs.** The Union shall be authorized at least the same number of negotiators as Management at the table, but no fewer than the number authorized below.

- (1) National Negotiations shall be conducted in HQ or in one of the affected regions, and local negotiations should take place in the affected location or field office, unless another venue/geographic location is mutually agreed upon by the parties. Where all negotiation team

members are not co-located, the parties may mutually agree to conduct negotiations by telephone or telecast.

- (2) The parties will identify their chief negotiators and may authorize up to four (4) additional negotiators for national negotiations, and up to three (3) additional negotiators for local negotiations. All but one member of the Union negotiation team must be designated Union representatives under Article 47 of this Agreement. If there are fewer than two (2) Union representatives in an office where the negotiations are taking place, the Union may have up to two (2) Union negotiators who are not designated Union representatives under Article 47. Management shall pay travel and per diem in accordance with the Federal Travel Regulations for all four (4) Union negotiators for national negotiations and shall pay for one (1) Union negotiator for local negotiations in appropriate circumstances. The number of negotiators may be changed by mutual consent of the parties. Each party may have one technical expert at a time, for the limited purpose of discussing a particular subject. The parties agree to video/telephonic bargaining in some negotiations subject to mutual agreement.
- (3) Union negotiators shall receive official time for negotiations; however, this time does not count against the official time allocated under Article 47 of this Agreement. The Union negotiators will be on duty time for all time spent participating in negotiations, including participation in impasse proceedings, and for other related duties during negotiations, such as preparation time spent developing and drafting proposals.

**Section 49.06 - Ground Rules for Mid-Term Negotiations.** The following ground rules apply to all mid-term bargaining.

- (a) In order to expedite negotiations either party may request a briefing session to explore or explain the change and its impact on bargaining unit employees. This session may be scheduled in advance of the start of negotiations, or as a part of the time allotted for bargaining.
- (b) Facilities for negotiations shall be provided in accordance with Article 48. Negotiations shall be held in a suitable meeting room provided by the Department at a mutually agreed upon site. The Department will furnish the Union negotiating team with a caucus room, such as a conference room or other private meeting space which is in close proximity to the negotiation room. Alternatively, by mutual agreement, the Union may accept the negotiating room as a caucus room provided that Management's representatives excuse themselves during Union caucuses.
- (c) The Department will provide the Union negotiating team with customary and routine office equipment, supplies, and services, including but not limited to computer(s) with Internet and printing access, telephone(s), desks and/or table, chairs, office supplies and access to a secure photocopier.
- (d) Dates and times for negotiation sessions shall be mutually agreed to by the parties; however, once negotiations begin, the parties shall continue negotiating until agreement, impasse, or as mutually agreed. Negotiations shall normally begin at 9:00 a.m. and last at least until 4:00 p.m. This schedule may be altered by mutual consent. There shall be a one (1) hour break for lunch.

- (e) Either party may caucus at any time during negotiations. If a caucus shall last more than fifteen (15) minutes, the party not in caucus shall be advised at least once an hour of the estimated duration of the caucus.
- (f) Each party shall be represented at the negotiations at all times by one duly authorized Chief Negotiator who is prepared and authorized to reach agreement on all matters subject to negotiations and to sign off on agreements for their respective Party.
- (g) Neither party may substitute negotiating team members, except by mutual consent.
- (h) Observers shall be permitted in negotiating sessions only by the mutual consent of the parties.
- (i) Either party may submit new proposals on the first day of negotiations. Parties may submit new proposals based on new or modified information provided by the other party. Once negotiations begin, a party shall not submit new proposals but may modify its initial proposals and/or submit counter-proposals until agreement has been reached.

Parties may submit new proposals at any time by mutual agreement in the interest of reaching an agreement.

- (j) Upon reaching agreement on each item, the Chief Negotiators shall signify tentative agreement by initialing the agreed upon item. This shall not preclude the parties from reconsidering or revising the agreed upon items until final agreement is reached on all items. Upon completing the negotiations, the parties shall review and edit for consistency and make mutually agreed upon changes.
- (k) Changes that are negotiated or agreed to pursuant to this Section shall be duly executed by the parties. Supplements shall become an integral part of this Agreement and subject to all of its terms and conditions.
- (l) Either party may take written notes of the bargaining sessions but the parties agree that there will be no taping of negotiations.
- (m) The time limits set forth in this Section may be extended by mutual consent.
- (n) The product of mid-term bargaining is enforceable upon signature at the completion of negotiations.
- (o) Nothing in this Section is intended to discourage the resolution of mid-term bargaining issues through informal methods.
- (p) Further requests for information shall be responded to in accordance with the Labor Management Statute (5 USC 7114 (b)(4)).

**Section 49.07 - Negotiability Disputes.** Negotiability determinations may be requested by the Union if management alleges non-negotiability regarding a proposal. Where a matter is alleged to be inappropriate for bargaining on the sole basis that it is covered by the Master Agreement, the matter may be resolved under the arbitration provisions of this Agreement or referred to the Federal Labor Relations Authority (FLRA) for resolution. Matters involving allegations of non-negotiability shall be referred to the Federal Labor Relations Authority (FLRA) for resolution.

- (1) If there are negotiability disputes, only the agreed-upon terms may be implemented by management.
- (2) The parties will resume negotiations on proposals determined to be negotiable within 15 days of the determination, or a period mutually agreed upon by the parties.

**Section 49.08 - Bargaining Impasse Procedures.** Impasse means that point in the negotiation of conditions of employment at which the parties are unable to reach agreement after making efforts to do so by direct negotiations. If either party determines that they are at impasse of a proposal(s), that party shall promptly request mediation from the Federal Mediation Conciliation Service (FMCS).

- (1) If impasse is reached and declared by the FMCS mediator, either party may request consideration of the impasse by the Federal Service Impasses Panel (FSIP). Proposed changes may not be implemented until final agreement is reached or FSIP issues their decision. If the Union fails to request consideration of an impasse by the FSIP in accordance with the procedures in 5 CFR 2470 within 10 days of its receipt of Management's notice of intent to implement its last offer, Management may implement its last offer.
- (2) If the parties reach impasse, only the agreed upon terms may be implemented by mutual consent. Impasse resolutions shall be implemented expeditiously.